



Consumer Electronics Association

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March 9, 2004

VIA ECFS

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

Re: *Ex Parte* Communications in CS Docket 97-80

Dear Ms. Dortch:

This is to notify you that on March 8, 2005, I met with John Branscome, Acting Legal Advisor to Commissioner Abernathy.

Regarding the proposed extension of the July 1, 2006 deadline by which cable operators must rely on a common security interface (i.e., CableCARD™), the consumer electronics and information technology industries remain steadfast in their view that the July 1, 2006 date for such common reliance must be maintained as the Commission's rules require.

It is our belief that software downloadable security can be achieved within the context of 47 C.F.R. Section 76.1204, provided that it is mutually developed between the CE/IT and cable industries in an open forum (such as an ANSI-accredited standards organization) and, consistent with previous Commission decisions in this docket, is available on a nationwide standard basis with reasonable licensing terms, as discussed below. It is not necessary to repeal the common security requirement in order to achieve a future downloadable security solution, and any arguments to the contrary are merely efforts to stall implementation of the existing rule.

The Commission must be aware, however, that because software downloadable security is under NDA and is in the conceptual stage of a major architectural change, it has not been presented to an open standards forum, and there are no opportunities for public technical discussions. We urge the Commission to get this issue out into the open—and keep it in the open—so all impacted parties can see whether this is a viable solution. Our view is that "completing" downloadable security means completion of all standards, the license, and support in all of cables' headends.

In principle, downloadable security could be implemented in the form of a common processing element in cable-ready retail devices and cable operator leased devices, with a separable security software element for conditional access downloaded from each local cable

system. A software technology meeting the Commission's requirements is not currently available. The critical issue for any such technology is common reliance -- the CE and IT industries must have the ability to use the same technology in retail devices that cable operators use. It simply is not acceptable for cable operators to use downloadable security while CE and IT must use the CableCARD; such an outcome would eliminate all benefits of common reliance.

At our meeting, I urged the Commission to maintain the current July 1, 2006 deadline so the incentives and consumer benefits that arise from common reliance, which CEA has thoroughly described on many other occasions, finally will begin to take effect. On a parallel track, the Commission must oversee any industry exploration of the downloadable security option to ensure that any downloaded software technology will meet the Commission's common reliance requirements. As part of this oversight, there are several crucial technical and licensing issues that the Commission should address -- which are similar to those issues that surrounded the development and deployment of the CableCARD. These include:

1. A guarantee that the Commission will provide oversight to ensure that license terms for the new downloadable security will be reasonable, nondiscriminatory, and will not address in any way the features and functions of the host device other than the minimum necessary to protect cable networks from theft of service and protection of content;
2. Development of a nationwide (universal) standard for the host-side implementation (i.e., security chip, software and hardware that are incorporated into the cable-ready retail devices and cable operators' set top boxes), so the devices can move anywhere in the country and receive the downloadable security from the local cable operator;
3. Requirements for handling copy-protected content; and
4. A requirement that cable operators nationwide use the new software downloaded security technology only when it becomes available for use in retail devices on a nationwide standard basis with reasonable licensing terms, as discussed above. In the meantime, while any software downloadable security technology is being developed, the current requirement for use of CableCARD by July 1, 2006 should stand.

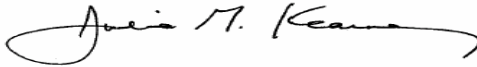
At the meeting, I also urged the Commission to order that multi-stream cards (or M-cards) for UDCPs must be available on an expedited basis and to provide and enforce a firm deadline for availability. The specifications for M-cards has been available since September 2003 and such cards have not yet been produced or supported by the cable industry. Testing specifications and development tools for implementing M-card in UDCPs are critical now, and it does not make sense to wait for the bidirectional agreement to be completed.

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If, after careful consideration, the Commission extends the July 1, 2006 date for common reliance on CableCARDS, then we urge it to mandate meaningful and transparent reporting requirements for cable operators to ensure their quality support of CableCARDS. Further, we urge the Commission to adopt reporting requirements regarding progress toward the software downloadable security solution pursuant to necessary requirements, as outlined above.

This letter is being provided to your office in accordance with Section 1.1206 of the Federal Communications Commission rules. A copy of this letter has been delivered by e-mail to Mr. Branscome.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Julie M. Kearney", with a long, sweeping horizontal line extending to the right.

Julie M. Kearney
Senior Director, Regulatory Affairs

cc: John Branscome